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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,005	12/12/2000	Kazuyuki Ito	NEC 444	3384
27667	7590	10/06/2004	EXAMINER	
HAYES, SOLOWAY P.C. 130 W. CUSHING STREET TUCSON, AZ 85701			GEBREMARIAM, SAMUEL A	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/735,005	Applicant(s) ITO, KAZUYUKI	
	Examiner Samuel A Gebremariam	Art Unit 2811	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

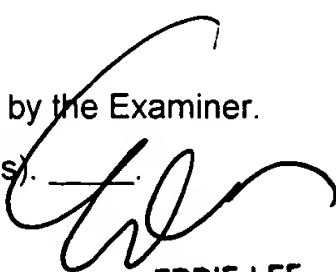
Claim(s) rejected: 37-40 and 42-45 and 47.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. ☐ Other: _____


EDDIE LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments filed 9/16/04 have been fully considered but they are not persuasive. Applicant argues that the rejection based on admitted prior art in view of Gilbert et al. to claims 37, 39, and 40 is in error. APA as indicated in the final office action, teaches forming a conductive layer over the semiconductor substrate using a photoresist pattern layer using a photomask having gate patterns (P1) and (P2) and dummy gate patterns (DP). What admitted prior art lacks is using a second photomask and the formation of a trench. Gilbert teaches the use of a photolithographic process which involves the use of photomask to form trench isolation. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the first masking process for forming trench isolation trench structure taught by Gilbert in the process of admitted prior art in order to form isolation structures between the active region before forming the gate and dummy gate structures. Furthermore the combined process of admitted prior art and Gilbert results in a structure where each of the dummy gate patterns having a reduced area of the respective one of the dummy area patterns. .

With respect to claim 42, applicant argues that the term "grid shaped trench" is supported by figure 5 and figs. 8A-8F. The examiner finds applicants argument persuasive. Therefore the 35 USC 112 rejection is removed. However claim 42 is prima facie obvious over Gilbert in view of admitted prior art. Gilbert teaches in figure 1 isolation area (13) intervening between the first and second active areas. Furthermore figure 7 of Gilbert teaches a masking pattern with dummy regions (20) along with active areas (21) and (27) that are used to form the device of figure 1. Therefore the process of figure 1 would have grid shaped trenches. Furthermore the combined process of admitted prior art and Gilbert results in a structure where each of the dummy gate patterns having a reduced area of the respective one of the dummy area patterns.